

THE HONORABLE JAMES L. ROBERT

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

LONDI K. LINDELL,

Plaintiff,

v.

CITY OF MERCER ISLAND, a Washington
municipal corporation; MERCER ISLAND CITY
MANAGER RICHARD CONRAD, in his official
and individual capacities; MERCER ISLAND
DEPUTY MAYOR JIM PEARMAN, in his
official and individual capacities; MERCER
ISLAND COUNCILMEMBER ERNEST
JAHNCKE, in his official and individual
capacities; MERCER ISLAND FINANCE
DIRECTOR CHARLES CORDER, in his official
and individual capacities,

Defendants.

No. C 08-1827 JLR

DECLARATION OF LONDI
LINDELL IN SUPPORT OF HER
MOTION FOR SUMMARY
JUDGMENT ON PLAINTIFF'S
PUBLIC RECORD ACT CLAIMS

NOTE ON MOTION CALENDAR:
January 28, 2011

1 I, Londi K. Lindell, being duly sworn on oath under penalty of perjury under the laws of
2 Washington State and the United States depose and say:

3 1. I am the Plaintiff in the above-captioned matter.

4 2. I am over the age of eighteen and competent to testify to the matters set forth herein
5 based upon my personal knowledge.

6 3. I served the City of Mercer Island for approximately eight years, first as City
7 Attorney, and then, after being promoted to second-in-command, as Deputy City Manager.
8 Throughout my employment, I always received the highest rating for my performance
9 (“outstanding”) from City Manager Rich Conrad (“City Manager Conrad”), who praised me for
10 my work and loyalty.

11 4. In the fall 2007, I had serious concerns regarding the conduct of City Manager
12 Conrad and Human Resource Director Kryss Segle (“HR Director Segle”). City Manager
13 Conrad had previously been disciplined for soliciting sex from the City Clerk, a female
14 subordinate employee, with HR Director Segle also being disciplined for failing to report the
15 employee’s complaint of sexual harassment and retaliation for over two years. After an
16 independent investigation into City Manager Conrad’s conduct by investigator Amy
17 Stephenson, the matter was mediated and resulted in the employee leaving the City and being
18 paid approximately \$90,000 and Mr. Conrad being disciplined.

19 5. My serious concerns about Conrad and Segle’s relationship included City
20 Manager Conrad inappropriately interfering in the discipline of HR Director Segle’s husband,
21 Johnny Segle, a City maintenance employee, for his violations of the City’s sexual harassment
22 policy after Ms. Segle asked Mr. Conrad to intervene on her husband’s behalf. In addition, I
23 was concerned when Mr. Conrad opposed disciplining HR Director Segle for actually writing
24 her husband’s grievance in direct violation of City policy and Mr. Conrad’s refusal to discipline
25 Ms. Segle for joking about possibly exposing her naked genitalia when she failed to wear
26 underwear to work. I worried that history was repeating itself, with Conrad now covering for

1 the Segles' breaches of the City's anti-harassment policy just as Segle had covered for Conrad
2 earlier for his breaches of the City's anti-harassment policy when he propositioned a female
3 subordinate for sex.

4 6. City Attorney Sterbank wrote a legal memorandum on October 3, 2007 to City
5 Manager Conrad with copies to myself and Assistant City Manager/Parks Director Pete Mayer,
6 advising City Manager Conrad that such conduct could place the City at risk by undermining
7 the City's ability to discipline employees and by tolerating sexual harassment. ("Sterbank
8 Memo"). The Sterbank Memo also warned that other Directors, including myself, "perceive the
9 relationship [between Conrad and Segle] to be similar in character to the City Manager's former
10 City Clerk" and "express confusion . . . at the emotional nature of the City Manager's reaction
11 to Ms. Segle's resignation threat." Notably, the only two Directors cited by name – myself and
12 Assistant City Manager Pete Mayer – were ultimately pushed out of the City, along with Mr.
13 Sterbank.

14 7. City Manager Conrad asked me to perform a sham investigation to "clear his
15 name" and invalidate the Sterbank Memo, where he would select the witnesses, write the
16 questions and sit in the room while I interviewed the witnesses about his conduct. I refused to
17 perform an investigation that was not compliant with the City's sexual harassment policy.
18 Conrad and the City then hired outside investigator Marcella Reed to conduct an investigation
19 ("Reed Investigation"). On December 3, 2007, after completing thirteen interviews of Mercer
20 Island employees and reviewing voluminous documents, Investigator Reed provided the City an
21 "investigation status," which substantiated my concerns including that City Manager Conrad
22 and HR Director Segle had "an emotionally intimate relationship" which Segle used "to
23 influence the disposition of discipline issued to her husband." Reed also concluded that my
24 concern over Mr. Conrad's refusal to discipline Ms. Segle for joking about her failure to wear
25 underwear to work and possibly flashing a police employee could result in "potentially
26 successful gender discrimination, sexual harassment, and hostile work environment claims."

1 8. As soon as Ms. Reed was retained to perform an investigation into the “C&S
2 Investigation” [Conrad and Segle Investigation], I was targeted for retaliation by Mr. Conrad
3 and others because my testimony to Ms. Reed was damaging to Mr. Conrad. In Reed’s
4 “Investigation Status”, she predicted Mr. Conrad would not be able to control himself and
5 would retaliate against me.

6 9. I was told by Mr. Conrad and Councilmember Dan Grausz that Marcella Reed
7 would be giving the City Council her report on December 3, 2007 and Mr. Grausz told me
8 “things weren’t looking good for Mr. Conrad”. On December 5, 2007, two days after Ms. Reed
9 made her presentation to the City Council, I was told that Ms. Reed had been fired and that the
10 City Council would be conducting their own investigation with then Mayor Bryan Cairns, then
11 Deputy City Manager Jim Pearman, and Defendant El Jahncke – all having no experience or
12 training in conducting investigations into sexual harassment or retaliation. I was directed to
13 make myself available on December 6, 2007 to be interviewed by them. I was contacted while
14 on vacation by these three Councilmembers and asked questions that made it clear the Council
15 was re-focusing the inquiry into whether my actions had been appropriate in writing a
16 chronology describing Ms. Conrad and Ms. Segle’s misconduct for Ms. Reed and my testimony
17 to Ms. Reed as opposed to the misconduct of Mr. Conrad and Ms. Segle. I later learned that
18 other witnesses interviewed by these three Councilmembers were asked whether or not I wanted
19 Mr. Conrad’s job or whether they believed I was part of a conspiracy with City Attorney
20 Sterbank to get Mr. Conrad’s job, which was nonsense and false.

21 10. Investigator Reed’s conclusions about my retaliation proved all too prescient,
22 and on or around December 17, 2007, just fourteen days after Reed delivered her findings to the
23 City Council, Mayor Cairns called a meeting of all the City Directors and informed me (along
24 with Bob Sterbank) that we should leave Mercer Island and seek other employment.

25 11. In April 2008, soon after I hired legal counsel believing that my impending
26 termination violated my civil rights and shortly after my lawyer wrote Mr. Conrad a letter

1 asking him to cease his retaliation against me, I was fired without any due process or
2 *Loudermill* hearing.

3 12. In May 2008, I filed a Public Records Act (PRA) request with the City.
4 Notwithstanding my request that the City identify any withheld documents in a privilege log, I
5 didn't receive the log until seven months after my initial PRA request. The withholding log
6 failed to set forth a brief explanation of how the exemption applies to the record withheld and
7 failed to even identify the subject matter of the records. When I reviewed the log, I believed
8 that a majority of the purportedly "exempt" records were being wrongfully withheld. Indeed,
9 among the voluminous records the City claimed were exempt under the attorney-client privilege
10 and/or work product doctrine, the City listed at least two hundred and sixty-eight (268) records
11 that I believed were public records that should be produced under the PRA.

12 13. I am aware that the City still withholds public records from me that the City has
13 failed to list on its exemption or privilege log. In May 2008, I requested Rich Conrad's phone
14 records from his blackberry, cell phone, City desk phone and home phone from September 1,
15 2007 until the present. I have not received these public records and the City has not listed these
16 records on its privilege log. I am aware that attorney Kelby Fletcher wrote to the City after the
17 City threatened to file a bar complaint against Mr. Sterbank explaining why any privilege or
18 work product surrounding the Segle investigation had been waived. I have still not received this
19 document and it is not listed on the City's privilege log. I requested copies of family and
20 personal photos that were downloaded on my work computer and the City has refused to
21 provide these to me.

22 14. The City's refusal to produce these public records to me have had an economic
23 impact on me. I have sought alternative employment since my wrongful firing and every time I
24 have been interviewed for a position, I am asked to explain the facts surrounding my
25 termination. In one interview, this was the first question I was asked. The City's threat to file a
26 bar complaint against me if I discuss these facts and my inability to use Ms. Reed's

1 investigation status to clear my name have adversely impacted my ability to clear my name
2 from the false claims the City has made about my character, honesty and integrity. Any search
3 of the court filings by a potential employer reveals that my former employer accuses me of
4 being “deceitful and dishonest” and “disclosing client confidences”. Further the City has filed
5 pleadings accusing me of attending sex counseling, being an alcoholic, using illegal drugs and
6 various other attacks on my character. Not having access to the Reed Investigation material
7 made it impossible for me to defend my reputation and character.

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2 I declare under penalty of perjury under the laws of the United States and Washington State
3 that the foregoing is true and correct to the best of my knowledge and belief.
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5 SWORN TO this 6th day of January, 2011.
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8 By: 
9 Londi K. Lindell
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DECLARATION OF SERVICE

The undersigned hereby declares under penalty of perjury under the laws of the State of Washington that, on the below date, I mailed or caused delivery and/or electronically filed a true copy of this document, which will send notification of such filing, to the following persons:

Stephanie R. Alexander, Esq.
Suzanne K. Michael, Esq.
Thomas P. Holt, Esq.
Michael & Alexander, PLLC
One Convention Place
701 Pike Street, Suite 1150
Seattle, WA 98101
Telephone: (206) 442-9696
Fax: (206) 442-9699
Email: stephanie@michaelandalexander.com
suzanne@michaelandalexander.com
thomas@michaelandalexander.com

Attorneys for Defendants

DATED this 6th day of January, 2011, at Seattle, Washington.

/s/ Scott C.G. Blankenship
Scott C. G. Blankenship, WSBA No. 21431
The Blankenship Law Firm, P.S.
1201 Third Avenue, Suite 2880
Seattle, WA 98101
Telephone: (206) 343-2700
Fax: (206) 343-2704
Email: sblankenship@blankenshiplawfirm.com